

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Cr. No. 3:06-CR-126-WHA
)	
JOHN JENNINGS, II)	

MOTION TO CLOSE EVIDENTIARY HEARING

Comes now the United States of America, by and through Leura Garrett Canary, United States Attorney for the Middle District of Alabama, and respectfully requests that this Court close the evidentiary hearing and submit its Report and Recommendations based upon the motions and responses submitted by counsel and testimony taken in this case. In support thereof, we would show the following:

1. An evidentiary hearing was set in this case for December 7, 2006, by Order of the Court, dated November 28, 2006.
2. On December 7, 2006, the parties appeared before this Honorable Court to take testimony in this matter.
3. The government called United States Postal Inspector Jeff Arney as its sole witness. Inspector Arney was subjected to direct and cross examination. The Government rested after Inspector Arney's testimony.
4. The defendant called its only witness, Dr. Katherine Boyer, to give an expert opinion.
5. The government objected to Dr. Boyer's testimony as a report from Dr. Boyer had not been provided to the government.
6. The Court, upon request of the defense, continued the evidentiary hearing to allow

Dr. Boyer's report to be submitted to the government for evaluation and to allow the government an opportunity to evaluate the report and obtain its' own expert.

7. The Court stated that it would reset the evidentiary hearing for a date in February 2007.

8. To date, the government has not received Dr. Boyer's report.

9. Government counsel has spoken with Kevin L. Butler, attorney for the defendant who has stated that he is not in receipt of Dr. Boyer's report, but believes that it may be received by the defense sometime within the week of January 8-12, 2007.

10. At the evidentiary hearing on December 7, 2006, Dr. Boyer informed the Court that her report would be completed and submitted within two weeks (December 21, 2006).

11. The government will not have sufficient time to receive and evaluate the report, hire an expert to evaluate said report, and return his/her own report before the anticipated February setting.

For the reasons stated above, the United States respectfully requests that this Honorable Court, by order, close the evidentiary hearing and issue its Report and Recommendations based upon the motions and responses filed and testimony submitted.

Respectfully submitted this the 5th day of January, 2007.

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CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Kevin L. Butler.

Respectfully submitted,

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